

GENETIC TESTING FOR INSURANCE COVERAGE

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STATE	CITATION	COVERAGE	PROVISIONS
Alabama	§ 27-53-2	Health benefit plans, including self-insured. Covers plans located outside state to the extent they cover AL residents or individuals that receive care in AL.	May not require as a condition of insurability that a person take a genetic test to determine if he or she has a predisposition for cancer, or charge different rates or provide different level of coverage.
Alaska	§ 21.54.100	Group health	May not establish rules for eligibility based on genetic information.
Arizona	§§ 20-448; 20-1051	Life and health	It is an unfair trade practice to consider a genetic condition in determining rates, terms or conditions of a life or health insurance policy or to reject an application for coverage based on a genetic condition unless the applicant's medical history and condition and claims experience or actuarial projections establish that substantial differences in claims are likely to result from the genetic condition. In addition, rejection of an application or determination of rates, terms, or conditions of a disability insurance contract on basis of genetic condition constitutes unfair discrimination in the absence of the diagnosis of the condition related to the testing information.
	§§ 12-2801 to 12-2803	Life, health and service corporations	Genetic testing is confidential and is not to be disclosed except as authorized in writing by the tested person.
Arkansas	SB 763 (2001)	Health	May not require an individual to obtain a genetic test or use the results of a genetic test to determine eligibility for coverage, establish premiums, or limit coverage. May take these actions based on the manifestation of a condition or disease.

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California	Ins. § 10140	Health	No insurer shall refuse to issue or sell or renew any policy of health insurance or charge a higher premium solely because the person carries a gene which may be associated with disability in that person or the person's offspring.
	Ins. §§ 10146 to 10149.1	Life and health	Establishes standards for underwriting life and health insurance on the basis of genetic characteristics.
	Ins. § 10123.35	Self-insured welfare benefit plan	Additional penalties and remedies with respect to violation of provisions relating to discrimination on basis of genetic characteristics apply to self-insured welfare benefit plan.
	Reg. § 2218.20	Life and health	Prescribes language for consent form for genetic testing to assure informed consent and confidentiality.
Colorado	§ 10-3-1104.7	Health, disability income, long-term care	Prohibits health and disability underwriters from seeking genetic information or using it to deny health insurance, group disability or long-term care insurance.
Connecticut	§ 38a-816	Individual and group health insurance coverage.	Genetic information indicating a predisposition to a disease or condition is not a preexisting condition in the absence of a diagnosis of a disease or condition based on other medical information. Insurer may refuse to insure or apply a preexisting condition limitation where the individual has exhibited symptoms of the disease or condition.
Delaware	tit. 16 §§ 1220 to 1227	All lines	An insurer that wishes to perform a genetic test must obtain signed consent prior to testing. The form may also include authorization to retain and disclose the information.
	tit. 18 § 2317	Health insurance	May not discriminate against any individual in the issuance or fixing of rates for health insurance.
District of Columbia	No provision		

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Florida	§§ 626.9706, 626.9707	Life and health; sickle-cell trait	No life or health insurer shall refuse to issue and deliver any policy of insurance solely because the person has sickle-cell trait.
	§ 641.31073	Health	HMOs offering group health insurance coverage may not establish rules on eligibility based on genetic information.
	§ 627.4301	Health	May not require or solicit genetic information, use genetic tests or consider a person's decisions or actions in regard to genetic testing for any insurance purpose. Genetic information includes questions regarding family history.
Georgia	§§ 33-54-1 to 33-54-8	Health	Prohibits use of any information obtained from genetic testing to deny access to health insurance.
Hawaii	§ 431:10A-118	Health insurance	May not use genetic information to deny or limit coverage or disclose any individual's genetic information without that person's written consent.
Idaho	No provision		
Illinois	215 ILCS 5/356v and 410 ILCS 513/20	Health	Insurer may not seek information derived from genetic testing or use the results of a genetic test in connection with a policy.
Indiana	§§ 27-4-1-4 and 27-8-26-5; 27-8-26-1 to 27-8-26-11	Health	Insurer may not require an individual to submit to a test or use results of genetic testing in processing an application for coverage.
Iowa	§ 513B.9A	Small group health	Shall not use genetic information in establishing rules for eligibility.
Kansas	§§ 40-2209(5), 40-2259	Health insurance	May not be treated as preexisting condition absent a diagnosis of condition related to such information. Shall not require or request directly or indirectly any individual or member of family to obtain or reveal results of a genetic test; cannot condition the provision of insurance or determine rates or any other aspect of insurance coverage or benefits provided to an individual or member of family if results of tests have been obtained. An insurer writing life, disability income, or long-term care insurance coverage that obtains genetic information shall not use the information in writing health insurance.

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Kentucky	§ 304.12-085	Health	Insurer may not deny, cancel or refuse to renew benefits or coverage on the basis of genetic testing.
Louisiana	§ 22:213.6 to 213.7 Ins. Reg. 63	Health insurance Health insurers TPAs, agents	May not terminate health insurance or discriminate on basis of prenatal tests, may not use any genetic information concerning an individual or family member's request for genetic services or refusal to take a genetic test to reject, deny, limit, cancel, refuse to renew, increase the rates of, or otherwise affect a health insurance policy or contract. Confidentiality provisions. Regulation prohibits use of genetic test information. Insurer may not seek genetic information from an insured or applicant without first obtaining written informed consent. May not use genetic information to restrict policy, cancel or refuse to renew coverage, or deny coverage. May not establish different premiums or otherwise discriminate.
Maine	tit. 24-A- § 2159-C	Health, hospital and dental Life, disability and long-term care (including credit life and accident, specified disease, hospital indemnity)	May not discriminate in issuance or renewal of a policy or in the fixing of the rates, terms or conditions of coverage on the basis of genetic information or because the individual refused to submit to a genetic test. May not unfairly discriminate based on results of genetic test.
Maryland	Ins. § 27-909	Health insurance	May not use genetic test, genetic information, or a request for genetic services to reject, deny, limit, cancel, refuse to renew, increase the rates of, or otherwise affect a health insurance policy or contract. Limits on disclosure. Does not apply to life insurance, annuities, long-term care insurance, or disability insurance.
Michigan	§§ 333.21072a, 550.1401, 550.3407b	Health insurance	May not require an applicant or member (or their dependents) to undergo genetic testing or to disclose prior genetic testing. Does not prevent an insurer from asking questions concerning family history.
Massachusetts	§§ 175:108H to 175:108I; 175:120E; 176A:3B; 176B:5B; 176G:24; 176I:4A	Health insurance, life, disability, long-term care, medical service plan, HMO, preferred providers	May not discriminate in any of the terms of the policy based on genetic information. For life insurance may not unfairly discriminate.

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Minnesota	§ 72A.139	Health insurance	May not require a genetic test or consider results of a test in determining eligibility for health insurance coverage, establishing premiums, or limiting coverage. Life insurers should obtain informed consent before testing and should recommend counseling.
Mississippi	No provision		
Missouri	§§ 375.1300 to 375.1312	All lines	May not require individual to take genetic test or disclose whether he has taken a test. May not base rates on fact has taken a test or on any test results.
Montana	§ 33-18-206 §§ 33-18-901 to 33-18-904	Genetic discrimination; all lines All lines	The rejection of an application or determination of rates based on a genetic condition is unfair discrimination unless the applicant's medical condition and history and either claims experience or actuarial projections establish that substantial differences in claims are likely to result from the genetic condition. It is an unfair trade practice to consider genetic information. Defines genetic information as information derived from genetic testing or medical evaluation medically or scientifically believed to cause a disease or associated with a statistically increased risk of developing a disorder. Insurer may not require a genetic test except for reasons listed, such as newborn screening and to establish parentage. May not refuse to insure or charge a higher rate or provide different terms based on genetic traits. May not discriminate in the fees or commissions of agents or brokers.
Nebraska	§ 44-5246.02 (small employer) § 44-6915 (group)	Health	Genetic information may not be used as a preexisting condition for purposes of exclusion from coverage.
Nevada	§ 689C.198 (small employers), § 689A.417 (individual) § 689B.068 § 689B.069 (group & blanket), § 695B.317 (nonprofit), and § 3695C.207 (HMOs)	Health	May not require individual to take genetic test or disclose whether he has taken a test. May not base rates on fact has taken a test or on any test results.

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New Hampshire	§§ 141-H:1 to 141-H:6	Health	Health insurer may not require genetic testing or condition provision of health insurance on results of a genetic test. May not consider in determination of rates. Does not apply to life, disability income or long-term care insurance.
New Jersey	§§ 17B:30-12 §§ 17:48-6.18, 17:48A-6.11, 17:48E-15.2, 17B:26-3.2, 17B:27-36.2	Limited benefit plans, life insurance, annuities, disability income, credit life or accident Hospital and medical service corporations, individual and group health	May not unfairly discriminate in the application of the results of a genetic test or genetic information in the issuance, withholding, extension or renewal of a policy. If the insurer plans to use a genetic test in compliance with this law, must notify the individual that a test will be required and obtain written consent for testing. May not exclude an individual or establish rates on the basis of an actual or expected health condition or on the basis of any genetic characteristic.
New Mexico	§§ 24-21-1 to 24-21-7	Health	May not obtain genetic information or samples for genetic analysis without informed written consent. Discrimination on basis of genetic information is prohibited. Not applicable to life, disability or long-term care insurance if the use of genetic information by those carriers is based on sound actuarial principles or related to actual or reasonably anticipated experience.
New York	Ins. Law § 2612	All lines	Insurer may not test without written informed consent of applicant. Standards for information to include in consent form. Insurer may not infer applicability to another person genetically related to individual tested.
North Carolina	§ 58-58-25 § 58-3-215 § 58-68-30	Life; sickle-cell trait Group health Group health	Insurer shall not refuse to issue or deliver any policy of life insurance solely by reason of the fact that their person possesses sickle cell trait or hemoglobin C trait, nor shall the policy carry a higher premium rate or charge by reason of the fact of the insured possesses the trait. May not raise premium or refuse to issue a policy because of any information about genes, gene products, or inherited characteristics of an individual or family member. May not consider genetic information as a preexisting condition in the absence of a diagnosis of the condition related to the information.

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North Dakota	No provision		
Ohio	§§ 1742.42 to 1742.43, 3901.491 to 3901.501	Health	Insurers and HMOs shall not consider any information obtained from genetic testing in processing individual or group health insurance applications. Statute effective until the year 2004.
Oklahoma	tit. 36 §§ 3614.1 to 3614.3	Health	May not determine eligibility for coverage or limit coverage based on the results of a genetic test or condition eligibility on a requirement that the individual take a genetic test. Privacy provision.
Oregon	§ 746.135	Hospital or medical expense coverage	Requires informed consent before testing DNA. May not use results of testing of an individual or blood relative to reject, deny, limit, cancel, refuse to renew, increase the rates, or otherwise affect any policy covering hospital or medical expenses. May not use favorable test results to induce the purchase of insurance.
Pennsylvania	No provision		
Puerto Rico	N-AV-10-90-97	Health	Genetic information would not be considered a preexisting condition.
Rhode Island	§§ 27-18-52, 27-18-52.3, 27-19-44, 27-19-44.1, 27-20-39, 27-20-39.1, 27-41-53, 27-41-53.1	Health	May not use a request for a genetic test or the results of a genetic test to reject, deny, limit, refuse to renew or increase rates for health insurance. May not ask whether an individual has had a genetic test. May not release any information about a genetic test without written authorization.
South Carolina	§§ 38-93-10 to 38-93-60	Health	May not determine eligibility for coverage or limit coverage based on the results of a genetic test or condition eligibility or a requirement that the individual take a genetic test. Privacy provision.
South Dakota	§ 58-17-84	Health	Genetic information may not be considered a preexisting condition.
	SB 1 (2001)	All lines	Must obtain informed consent before performing a predictive genetic test. Specified disclosures included.
	HB 1003 (2001)	Health	Prohibits requiring a genetic test or taking into consideration the fact that a genetic test was refused by an individual or his relative.

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Tennessee	§§ 56-7-2702, 56-7-2703, 56-7-2707 and 56-7-2708	Health	Insurer may not deny or cancel health insurance or vary conditions or premiums based on fact the individual has requested or received genetic services. Insurer may not require individual to disclose genetic information nor may the insurer disclose any information without prior written consent of the individual.
Texas	I.C. art 21.73	Group health	Group health benefit plan may not use genetic testing information to reject, deny, limit, cancel, refuse to renew or increase premiums for health insurance. May not use results of a genetic test as an inducement for the purchase of coverage.
Utah	No provision		
Vermont	tit. 8 § 4724	All lines	It is unfair discrimination to condition insurance rates or renewal practices, etc. on the results of genetic testing except where there is a relationship between the medical information and the insurance risk. Also cannot condition rates or provisions on an agreement to undergo genetic testing or on results of testing on a member of the individual's family unless the results are in the individual's medical record.
Virgin Islands	No provision		
Virginia	§ 38.2-508.4	Health	Insurer may not terminate, restrict, limit or otherwise apply conditions on coverage of an individual; cancel or refuse to renew; exclude; impose a waiting period; or establish a different rate for coverage on the basis of the results of genetic information. Information obtained from genetic screening or testing is confidential. May not discriminate in payment of fees and commissions to agents and brokers.
Washington	No provision		

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West Virginia	§ 33-16-3k	Group health	Genetic information may not be used as a preexisting condition.
Wisconsin	§ 631.89	Health	Insurer may not require or request any individual or a member of the individual's family to obtain a genetic test. Shall not condition the provision of insurance coverage or health care benefits on whether a genetic test has been performed or on what the test results are. Does not apply to life insurance or income continuation insurance. If life or income continuation insurers do obtain genetic testing information, they are under the same information use restrictions as the insurers mentioned above.
Wyoming	§ 26-19-107	Group and blanket health	Genetic information shall not be used to establish eligibility for enrollment.

This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Every effort has been made to provide correct and accurate summaries to assist the reader in targeting useful information. For further details, the statutes and regulations cited should be consulted.

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